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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/775,740

02/09/2004

Edward C. Adair

A6

1518

7590

07/12/2005

Robert O. Wright  
42 Boston Lane  
Palm Coast, FL 32137

EXAMINER

LERNER, AVRAHAM H

ART UNIT

PAPER NUMBER

3611

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/775,740

Applicant(s)

ADAIR, EDWARD C.

Examiner

Avraham Lerner

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 4-7, 12 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8 and 9 is/are rejected.
- 7) ☒ Claim(s) 1-3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>0204</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restriction***

1. Applicant's election of Group I in the reply filed on March 19, 2005 is acknowledged.

Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election *without* traverse (MPEP § 818.03(a)).

2. In the same response, applicant states that all of the pending claims 1-13 read on the elected embodiment. This is clearly not true, in that the elected embodiment includes no sensor members or control means as recited in detail in claims 4-7, 12, and 13. Although applicant has not made a good faith effort to identify the claims readable on the elected species, it is apparent from the drawings and specification that the appropriate claims are 1-3 and 8-11, and these claims will be treated on their merits.

### ***Claim Objections***

3. Claims 1-3 and 8 are objected to because of the following informalities: "member" should be added after "ball mount" in the second-to-last line of claim 1 for consistency with the rest of the claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3611

5. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites that the tubular hitch member pivots a total of one hundred fifty degrees, thereby contradicting lines 10-11 of claim 1, which state that the hitch member is pivotable through substantially one hundred eighty degrees from left to right.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Griffith (U.S. Patent No. 5,580,088) in view of Szczypski (U.S. Patent No. 6,068,281).

Griffith discloses a trailer hitch apparatus comprising all elements as claimed, including a hollow tubular hitch receiving member (31) pivotally mounted on the rear of a towing vehicle for left to right movement of substantially one hundred eighty degrees; a ball mount member (17, 19) telescopically mounted (see Fig. 2) in said tubular hitch receiver having a length greater than the hitch receiver and carrying on the rearward end thereof a hitch ball (25); said ball mount member having on the forward end index engaging means (groove 18), as broadly recited. Rather than a standard set of holes in the hitch receiver and ball mount member, Griffith teaches

Art Unit: 3611

a pawl and ratchet rack assembly to hold the hitch receiving member and ball mount member in solid engagement.

Szczypski discloses that it is known in the art to provide a hitch receiving member and ball mount member with a set of holes to lock the two elements in fixed position when the sets of holes are in alignment.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the hitch receiving member and ball mount member of Griffith with a set of holes as taught by Szczypski in order to provide a strong and secure connection between the two elements to ensure that they will remain locked together when necessary. Note that the claim language regarding the functional limitation of engaging towing index means or stowage index means to be held in towing or storage condition does not serve to define over the art in that these elements are not deemed positively recited. The examiner's assertion that these elements are not positively recited in claim 9 is supported by applicant's own claim 10, which reads "the apparatus as claimed in claim 9 further including towing index means and stowing index means...."

*Allowable Subject Matter*

8. Claims 1-3 would be allowable if rewritten or amended to overcome the informality objections set forth in this Office action.

9. Claims 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. La Roque (U.S. Patent No. 5,727,805), Swindall (U.S. Patent No. 5,288,095), Shields (U.S. Patent No. 5,593,171), Wolters et al. (U.S. Patent No. 6,729,637), and Carsten (U.S. Patent No. 5,322,315) disclose extendable and swingable trailer hitch assemblies.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avraham Lerner whose telephone number is (571) 272-6647.

The examiner can normally be reached on M-F (8:15-5:45) first Wednesday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**AVRAHAM LERNER**  
**PRIMARY EXAMINER**

*A. Lerner* 7/8/05

July 8, 2005